City of Lafayette
City Council Special Meeting
Redevelopment Agency Special Meeting
MINUTES

Lafayette Community Center – Sequoia Room
500 St. Mary's Road, Lafayette, California

February 9, 2009
6:00 p.m.

1. CALL TO ORDER

Mayor Anderson called the meeting to order at 6:15 p.m.

2. ROLL CALL

Present: Council Members: Mayor Tatzin, Vice Mayor Andersson, Councilmembers Anderson, Anduri and Federighi

Absent: None

Staff: Steven Falk, City Manager; Tracy Robinson, Administrative Services Director; Ann Merideth, Community Development Director; Gene Tanaka, City Attorney; Mala Subramanian, City Attorney

3. ADOPTION OF AGENDA

ACTION: It was M/S/C (Federighi/Anderson) to adopt the agenda. Vote: 5-0-0 (Ayes: Tatzin, Andersson, Anduri, Federighi, Noes: None; Absent: None).

4. PUBLIC COMMENTS - None

5. CLOSED SESSION

A. Conference with Legal Counsel-Existing Litigation
Government Code section 54956.9(a)
Colby v. City of Lafayette et al.
Case No. N08-1508

B. Conference with Legal Counsel – Existing Litigation
Government Code section 54956.9(a)
Holmes v. City of Lafayette
Case No. A122849

C. Conference with Legal Counsel – Anticipated Litigation: Significant exposure to Litigation pursuant to Government Code section 54956.9(b) (1 Case)

D. Conference with Labor Negotiators
Pursuant to Government Code section 54957.6
Agency Designated Representative: Steven Falk, City Manager and Tracy Robinson, Administrative Services Director

11A

Unrepresented Employees: All unrepresented City Employees

6. ADJOURNMENT

ACTION: It was M/S/C (Anduri/Federighi) to adjourn to the Special City Council Meeting at 6:55 p.m. Vote: 5-0-0 (Ayes: Tatzin, Andersson, Anduri, Federighi Anderson; Noes: None; Absent: None).

APPROVED:

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Don Tatzin, Mayor

ATTEST:

_____

Joanne Robbins, City Clerk

City of Lafayette
City Council Regular Meeting
Redevelopment Agency Special Meeting

MINUTES

Lafayette Community Center – Manzanita Room
500 St. Mary's Road, Lafayette, California

February 9, 2009
7:00 p.m.

1. CALL TO ORDER

Mayor Tatzin called the meeting to order at 7:00 p.m.

2. ROLL CALL

Present: Council Members: Mayor Tatzin, Vice Mayor Andersson and Councilmembers Anderson, Anduri and Federighi

Absent: None

Staff: Steven Falk, City Manager; Tracy Robinson, Administrative Services Director; Ann Merideth, Community Development Director; Niroop Srivatsa, Planning & Building Services Manager; Mala Subramanian, City Attorney; Ron Lefler, Public Works Services Manager; Tony Coe, Engineering Services Manager; Jennifer Russell, Parks, Trails & Recreation Director; Donna Feehan, Administrative Analyst; Matt Luttropp, Associate Engineer; Christine Sinnette, Senior Planner; Joanne Robbins, City Clerk.

3. PLEDGE OF ALLEGIANCE – Led by Mayor Tatzin.

4. ADOPTION OF AGENDA

Mayor Tatzin noted there was a request to remove Item 11.I from the Consent Calendar.

ACTION: It was M/S/C (Anderson/Andersson) to adopt the agenda, as amended. Vote: 5-0-0 (Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None).

5. REPORT ON CLOSED SESSION

Mayor Tatzin reported out on Closed Session, stating that the Council gave direction on Item A; took no action on Items B or C; the Council will continue discussion of Item D; and directed the City Manager to place a Resolution on the next agenda for the City to implement a hiring freeze.

6. PUBLIC COMMENTS - None

7. PRESENTATIONS

A. Steven Falk, City Manager and Tracy Robinson, Administrative Services Director 2009 Municipal Goal Setting

Recommendation: Review, discuss, and amend the attached Draft Goals and Workplans for the City of Lafayette for FY2009.

City Manager Falk gave the staff report, explained that long-term goals are articulated in the General Plan and in the Redevelopment Agency's Redevelopment Plan, medium-term goals are called out in the zoning ordinance and planning tools, such as the Downtown Strategy. Five-year plans, as well as other planning efforts that often involve citizens include the Lafayette Finance Review Committee, CPAC, and others.

For shorter term planning the Council has traditionally met in January and February to discuss its goals for the upcoming year and with input from the City Council, staff prepares a draft budget from goals the Council arrives at during the meeting.

Mr. Falk said in December, when the new Council was seated, Mayor Tatzin directed that 2009 will be the year of completing things; the City would not start new programs but focus on existing projects. He said a number of projects were articulated and staff has taken those projects, distilled them into 10 distinct goals, and per Mayor Tatzin's direction, drafted a workplan and calendar for each of those 10 goals:

1. To study alternatives to the Sheriff's contract for police services;
2. To open the Lafayette Library and Learning Center to the public;
3. To implement the recommendations of the Financial Review Committee;
4. To adopt a new downtown strategy and specific plan;
5. To develop a plan to fix more failed roads;
6. Adopt a Parks Master Plan;
7. Complete the Senior Needs Assessment;
8. Secure additional downtown parking;
9. (added by subcommittee of Councilmembers Anduri and Federighi) Develop a plan and strategy to acquire open space;
10. (added by staff) Prepare the City's first ever Government Statement.

Mr. Falk said calendars have been prepared to lead each of the goals and it is the intent of the Mayor to review those calendars and provide staff with direction on how to proceed.

Mayor Tatzin asked for comment on the goals, stating that Council sets the priorities for the budget. When the budget returns as a draft document in May or June, it will be driven by those goals adopted tonight.

Councilmember Federighi said a goal established in 2001 was carried over for several years, which was to work aggressively to locate and provide off-street parking in the downtown area. She confirmed it did appear on the list and she is assigned to it.

Vice Mayor Andersson noted there were 5 goals from last year not checked off; 3 are included in the 10 goals. He questioned if the Council should consider adopting a green building program. Ms. Merideth reported that the Environmental Task Force was currently working on the ordinance.

Public Comments:

TOR MCLEAN, Secluded Valley HOA, believed acquiring open space would be an excellent goal and said they have been involved with Acalanes Ridge.

STEPHANIE MCLEAN, supported the preservation of Acalanes Ridge open space.

ELIOT HUDSON supported open space, said many people are actively involved to protect Acalanes Ridge, worked hard to get Measure WW passed and specifically asked the EBRPD to allocate money to be used for areas along the eastern border of Lafayette contiguous to Briones. They succeeded in having the eligibility added and funds have been specifically dedicated for that purpose. He also voiced additional interest for Burton Ridge and other parts of Lafayette, stated that the Downtown Strategy Plan could have significant changes including increased building heights, reduced minimum setbacks, increased housing densities, and he asked the Council to keep saving the hills at the forefront.

MARK ZEMELMAN supported open space and Acalanes Ridge, preservation of ridgelines, and thanked the Council for thinking ahead.

GUY ATWOOD said under the Open Government Goal, he hoped the Council to also consider trying to strengthen the City's Conflict of Interest rules as they relate to City government. He said he supports the goals in general, but in the previous discussion the Council agreed to discuss all of the other recommendations of the Finance Review Committee. He therefore asked the Council to set a date for this in the next couple of months. He also reiterated tying any changes that are recommended to some event. In other words, if there are reduced revenues in any area, we should try to tie the costs and revenues associated with those areas versus cutting staff 10% across the board. Lastly, he supported the Open Space Ordinance and said he wrote the original draft ordinance in the early 1970's.

Vice Mayor Andersson referred to the Finance Review Committee recommendations and said it was Item 3 under the goals and there is a workplan for this. Regarding the Conflict of Interest Code changes, he questioned if there were specific changes Mr. Atwood wanted to make.

Mr. Atwood said the Lafayette Homeowners Council has discussed some changes and could draft something in writing and forward it to the Council.

RUTH MCCAHAN spoke in support of Goal 7; the completion of the Senior Needs Assessment. She felt it was important for the City, said there are severe constraints on their financial position and it is important to know what seniors in the City need and want so that money is not spent unwisely. The survey will result in good facts with which to base decisions and spending plans and noted seniors represent better than 16% of the community; that by 2011 it will be closer to 19%.

Mayor Tatzin referred to the workplan for the item, said a number of the tasks are complete and questioned the status of fundraising. Ms. McCahan said they have not raised funds as of yet. The current financial condition makes it tough to raise funds from outside sources. In addition, it is difficult to be identified as the 21st most-wealthy-per-household community in the country. She has discussed the need for funding with many foundations and their plight is not as severe as many of the other areas, but they are finding it difficult to solicit funds from outside foundations. They will initiate a Lafayette Drive and anticipate raising $10,000, the consultant's bid is for $35,600 and they plan to come to the Council in a few months time to request assistance with financing the assessment.

GEOFFREY BELLENGER referred to Goal 6 and supported adopting the Parks and Recreation Facilities Master Plan. They have prepared two reports on the City's website; a background report that looks at parks and previous work done and an outreach report that talks about outreach done last year with respect to development of the plan. He referred to the goal having to do with the

Finance report and at the last discussion, not all of the report recommendations would necessarily be approved for action, and therefore, people may not be aware of this.

Mayor Tatzin agreed, said there were a number of recommendations that were in different quadrants that have not yet been discussed.

The public comment period was closed.

Mayor Tatzin referred to Goal 7; Senior Needs Assessment. If the Council were to fund the upcoming request for $25,000, he questioned if it was better to allow work to proceed early with an understanding that the $10,000 is a loan, which can be repaid. Councilmember Anderson said he would not support this yet, appreciates the need for the study but he wanted to see interest on the part of citizens to contribute toward this.

Councilmember Anduri supported starting the work upfront, thinks the results of the senior needs assessment would fit into the Downtown Strategic Plan, and there will be many things learned from the assessment that would inform the City what should be done downtown. He said the consultant is ready; if the survey is put off until June the City will miss out on the benefit and he supported moving forward. He acknowledged the concern regarding moving ahead without funding but said the Task Force has just begun to go out to foundations and look for support. He also noted that this would be the only study the City has ever requested funding be in place for and said the Task Force has been working steadily to interview consultants and develop an RFP.

Councilmember Anderson voiced concern about the timing, stating the goal is to have a draft plan for the Downtown Strategy in late April. He also did not know anything about the RFP for the assessment and how long it would take, but it would have to get done and be folded into the consideration by March in order to make it part of the Strategic Plan process. He felt the timing might be somewhat short, agreed not everyone must pay for things they receive from the City, but voiced concern about timing, strong interest from the community in moving forward, and funds with which the City has to work with.

Mayor Tatzin acknowledged varying points of view and said, given interest he suggested bringing back the item at the next meeting and hold discussion.

Councilmember Anduri said the City has not asked people to donate so it is difficult to say whether or not there is interest. Secondly, he did not believe people were aware of the issue, and there may be people who would have expressed their interest.

Vice Mayor Andersson referred to the four-month process, noting that a contract would be approved in June and the final report done in October. He said the survey would not be completed in time to have a direct effect on the Downtown Plan; however, the plan might shed some light on what the senior assessment would imply.

Mayor Tatzin said recognizing the EIR would have a preferred project and alternatives, it might affect the EIR. By finishing it in June or July it has a better chance of affecting the EIR than if the Council adhered to the current schedule.

Councilmember Anduri said the Downtown Strategic Plan will be in concrete in April and he guessed if results were able to be obtained from the senior needs assessment in May, this would still be of value to the EIR portion of the process.

Councilmember Anduri noted that Items 1-8 were the original items, and Items 9 and 10 were not. Regarding Item 9, he would speak strongly to the item stating that one thing discovered through the process of being on the Planning Commission and City Council is the amount of protected open space in Lafayette is very, very small. Most of the City's efforts have focused on the hillside ordinance and protection of ridges which only goes so far. Acalanes Ridge has one parcel which is extremely prominent. Any house built on it will either have a negative impact on open space or it will be extremely visible from the City. Unless action is taken now, over the next 10-20 years people will be disappointed in what they see on the hillsides, and he believed now was the time to address this.

Councilmember Anderson agreed, said he was a little concerned about the timing in terms of how long it will take to complete a full study. The particular parcel is one he is interested in hoping to work out some partnership with some other interested agencies because part of it is in the County, Walnut Creek, Pleasant Hill, and hopefully something can be done fairly quickly. City Manager Falk noted there is a meeting at 1:00 p.m. the next day to discuss this with the City of Walnut Creek.

Councilmember Anduri referred to Item 3; implement the financial review recommendations, and said Task 1 is to establish joint communications/Charter City Committee. He questioned if the same committee would consider the communications plan.

Mayor Tatzin said later on in the agenda there is a discussion of this specific item and he brought a suggested purpose and scope of the Committee for discussion. He said the idea was to focus on the Charter City as a task and also use the communications plan as a case study of how does one communicate a topic more effectively than done in the past.

Councilmember Anduri said secondly, Mr. Atwood raised the issue regarding the other items contained in the Finance Review committee report, and he asked when these would be considered. Vice Mayor Andersson said there are a few in the "green" or "go forward" which still need a finalized decision. Regarding the other quadrants, he assumed these could be taken up at such time a final decision was made on the green items.

Councilmember Anduri said a budget meeting is proposed for May 25, 2009. Because things are changing and we do not know what will happen with sales and property tax revenue, he proposed scheduling a meeting for March 30th. However, sales tax information is not received until the first week of the next quarter. He proposed agendizing a preliminary budget session for the April 13th Council meeting to look at revenue and the cost saving items in the other three quadrants, and thought the public would also need to comment on those.

Councilmember Federighi assumed the general topic is to implement Financial Review Committee recommendations, but yet more specific seems to be looking at the option of becoming a Charter City. She said there were other recommendations that the Council supported and she hoped this would be part of that Committee's discussion.

Mayor Tatzin said no action was taken on the library issue, so there is nothing for the Committee to do on this. They will leave this to those who felt alternatives should be reviewed. The senior study will help with that topic. Regarding the police services review, they have gone out to bid with Danville and Orinda, a couple of proposals are in, and soon they will receive a recommendation to proceed. They decided to have the discussion of the Youth Diversion Officer be part of this topic.

Regarding the parking fund, Mayor Tatzin said they agreed not to move money from the parking fund, but the surplus income in the future would go in to help defray downtown expenses. They agreed to set up a communications committee, are looking at Charter Cities, and the best, new idea was proposed in terms of new revenue generation. Therefore, he believed they had all been covered.

Councilmember Federighi said in terms of taking a look at the use for the old Library, she believed the Council's decision was to get further into the Downtown Strategic Plan and it was not necessarily contingent upon a senior needs assessment. Mayor Tatzin said he would therefore suggest that this be brought back on the agenda because he said the Council was split 3-2; he and Councilmember Anderson acknowledged that the Council wanted to defer the committee's recommendation. Until the item is brought back on the agenda, he did not see any reason to do so. Councilmember Anduri thanked Mayor Tatzin for the clarification. Councilmember Anderson said there is consideration of the proposal in the Strategic Plan which may help get it moving to a public forum as well as illuminate the values or benefits. Councilmember Federighi agreed this was her understanding and the reason for her vote; supporting an opportunity for public input.

Mayor Tatzin confirmed there were no further comments and recommended adopting the goals, as amended, in order to provide direction and communication to staff and the public. He said the Council has agreed to take the work plans, post them on the website, for milestone dates they would automatically schedule a report on the task at a meeting, and the Council liaison and staff would provide the report on achieving the milestone.

Councilmember Anduri referred to Goal 5, Task 1; Reconvene the Roads Repair Task Force and Discuss Status; and noted this meeting would occur on February 26, 2009 at 6:00 p.m. The notice will be sent out tomorrow to interested parties.

ACTION: It was M/S/C (Andersson/Anduri) to adopt the Goals and Workplans for the City of Lafayette for FY2009, as amended and direct staff to communicate via the City's website. Vote: 5-0-0 (Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None).

Councilmember Anduri questioned and confirmed with Mayor Tatzin that he and Councilmember Federighi were responsible for the Open Space meeting. He also asked that they handle Item 9, and said staff was already handling Item 10.

B. Steven Falk, City Manager
Lafayette Stimulus Package
Recommendation: Discuss and direct staff.

City Manager Falk gave the staff report, stating an idea emanated from planning staff to have the Council order a package of policies which may help to stimulate the City's local economy. He said the economic news has not been good nationally, implications are being felt locally and he briefly discussed recent downtown vacancies, reduced retail sales and restrictions on obtaining credit. Lindy Coburn in the Planning Department encouraged her peers to champion the idea. Department managers discussed the idea and put together 5-6 opportunities which the Council may embrace to stimulate the economy:

1. To waive the cost for a sign permit. The lost revenue to the City might be a maximum of $5,000. The Mayor suggested that this might also encourage those merchants who may have put a sign up without a permit to bring their sign in for review.

2. To waive waste management deposit fees which developers are required to deposit with the City in advance of their development and it can be up to $30,000. They would receive the deposit back at the end of the development process. There would be no cost to the City, but one less capital requirement on a developer in taking their application through the process.
3. Ms. Srivatsa suggested the Council could consider automatically granting a one-year extension to all planning permits for development. Typically when an applicant receives approval on their application, the approval is good for 2-3 years, and this would automatically grant them an extension. If their approval were about to expire now, this would provide another year to put together a capital plan during their development. He said in his staff report, he discussed this only applying to the Redevelopment project area, but if you wanted to, it could be extended throughout the City.
4. The City could cover the cost of the planting of any street trees required by development in the public right-of-way. The City requires a street tree for downtown development, and the Council could consider the Redevelopment Agency paying for the cost of the tree which is approximately $500 each.
5. The Lafayette Chamber of Commerce did a great job during the holidays promoting businesses through "Try Lafayette First", with the idea being that if we can get people to use their shopping dollars in town versus Walnut Creek or Concord, Lafayette businesses will thrive and the City will receive more sales tax revenue. One recommendation is to devote the next issue of the Lafayette Vistas to this theme. Ms. Robinson could work with the Chamber of Commerce on the program.
6. The City is already doing this, but could underground the power lines around Lafayette Circle. The City spent a lot of money under grounding on Mt. Diablo Boulevard, but by doing so on Lafayette Circle, which is a village atmosphere, this might create opportunities for more outdoor dining similar to what is seen at Chow Restaurant.

Mr. Falk said other items which could be proposed are more expensive, such as having the Redevelopment Agency cover the cost of all walkway improvements. This could be a very expensive impetus on a developer and it could be up to a couple of hundred thousand dollars for a project. This might be the barrier from a developer doing a project right now and this is a technique used all the time by cities which is something the Council may wish to consider.

Mr. Falk said he attended the Chamber of Commerce Board of Directors meeting today. They were positive about the package proposed. One of the members suggested the Council might also consider lifting some of its land use restrictions, like the 180-day requirement that a business be replaced by a like business before the permit expires. If a certain space is zoned for bakery, and currently if another bakery does not replace it with another bakery, they might lose the right to put a bakery in the space and would have to go through the planning process again. The recommendation from the Chamber is that perhaps this could be waived during the same year the other policies might be in effect.

Mayor Tatzin said the Chamber also suggested the extension of the time limit for being able to put the same use when an existing space becomes vacant. He noted the Lafayette Taxpayers Association provided a number of recommendations which included waiving some or all the parkland dedication fees and some or all of the art fees for a period of time.

Councilmember Anderson said one which was not mentioned was no parking enforcement on Saturdays. If implemented, he questioned the financial impact. Mr. Falk said staff ran the numbers and it is a large financial impact in the range of $60,000 to $75,000 negative impact to

the City. Councilmember Anderson commented that he believed that the recommendations were excellent and provide the Council with many good options to pursue.

Mayor Tatzin confirmed there was no public comment.

Councilmember Anderson referred to the RDA cost of walkways and questioned whether a maximum amount could be established available on a first come first served basis. Mr. Falk also suggested a maximum amount per application, as it is conceivable that one developer could take all of it and leave nothing for the next person. Councilmember Anderson asked that staff further look into this because if a development requires that much expense, it could be a good project for the City to have and may be worth it.

Councilmember Anduri questioned if these are negotiated case-by-case in any event. City Attorney Subramanian said yes, and it may be better to implement this on a case-by-case basis but make the public aware of it. Mr. Falk said there are applications already approved by the City that have a walkway requirement associate with them. In one instance, it is a $250,000 burden, but it is not known whether or not it is a negating factor in this particular situation. Mayor Tatzin felt this was worth considering, but the City should also have conditions on the project as to the timing of its start and finish. Councilmember Anderson agreed.

Councilmember Federighi said because of the significant cost, she was not ready to support this without further study; however, she was supportive of the other items 1-6 as proposed and the idea of allowing a business more than 180 days to move in.

Mayor Tatzin questioned what action by Council or staff would be needed to implement the 180-day waiver. City Attorney Subramanian said this was recently done for another city and she recommended adoption of a resolution. Ms. Srivatsa pointed out that the 180-day period is really because some businesses have substandard parking; if the Council authorizes staff to move forward, the requirement would be waived for one full year. Mayor Tatzin thought that the City would have to identify and set the amount of time the vacancy could go back to, and suggested resolution spell out time parameters.

Councilmember Anderson said his sense was that this would be going forward and not recapturing current situations which are affected by parking issues. Councilmember Federighi agreed this is what she would favor.

Mr. Falk agreed staff could prepare a series of resolutions for each of the items and return them on the next Consent Calendar. Mayor Tatzin questioned and confirmed that the Council did not want to consider full or partial waivers of parkland dedication or art fees at this time.

Vice Mayor Andersson referred to street trees and confirmed that the waiver would not extend to median trees. He also believed that while the planting could be waived, the owners would still be responsible for maintaining them, and Mr. Falk noted that the City maintains street trees. Councilmember Anderson noted that the item does not spell out that the trees be located in the RDA area, and Mr. Falk said the RDA area is the only place the City requires street trees.

Mayor Tatzin supported having this extend not only to the RDA area but citywide for all planning permits. Councilmember Anduri said he would need to further review and consider this, and referred to the non-commercial parts of town. Councilmember Federighi said she would not favor it citywide. Councilmember Anderson questioned the downside, and Councilmember Federighi

said it is one of cost; the City is proposing a business stimulus package and not a residential improvement package.

Mayor Tatzin believed that if a resident has a project like an addition to their home which will involve purchasing of items from local merchants, this would relate and actually be a stimulus package. Councilmember Federighi did not voice support for this tonight.

Councilmember Anderson said he would support expanding the waiver citywide and agreed there was a connection related to the activity of remodels which may be stalled due to financing or re-financing. Councilmember Anduri agreed and said he would support this, as well. Councilmember Federighi said she was under the impression or misunderstanding that the discussion related to covering the cost of trees or landscaping, and therefore voiced her support.

Councilmember Anderson asked that Item 6 be removed from the list, as it is not an action and is already underway.

Mayor Tatzin noted that by consensus, the item is continued to the next meeting for a series of resolutions adopting the programs in detail. Vice Mayor Andersson asked that staff return with a recommendation on the walkway issue and whether there was a per application maximum or total amount that might be appropriate. Mr. Falk suggested having a $50,000 maximum for each application for a total of up to $250,000 maximum for the entire program. Councilmember Anderson supported this idea. Mayor Tatzin and Councilmembers asked that the RDA cash flow and availability of funds first be checked.

8. OLD BUSINESS

A. Matt Luttropp, Associate Engineer
Happy Valley Road Pathway – Modifications from Franklin Lane to Valory Lane
Update from neighbors on project funding
Recommendation: Discuss and direct staff.

Associate Engineer Matt Luttropp said the item was continued from the December 8, 2008 City Council meeting where the idea was to get an idea as to what sort of fundraising the neighborhood had been able to do to assist in realigning a pathway recently constructed from Franklin Lane to Valory Lane. Since that time, staff has been in contact with Mr. Bucher from the Happy Valley Improvement Association and Mr. Bucher informed staff that the neighborhood had raised $20,000, with more received tonight. He suggested allowing Mr. Bucher to speak on fundraising activities and direct staff as to how to proceed.

Councilmember Anderson confirmed with Mr. Luttropp that the Council talked about a relocation cost of about $56,000 which was the preferred project and currently, there is $16,000 available that is left from the grant which contributed toward the original work.

Public Comments:

Bill Bucher, Happy Valley Improvement Association, said when they left the meeting in December with the idea for residents to co-fund the desire to relocate the path inward, he realized that he never thought about a percentage, but indicated to residents he was in need of money. Through efforts of many people, the association collected $20,000 toward the project for the specific purpose to relocate the path thereby increasing safety. He said the current configuration of the path is on the City's right-of-way and moving it would locate it on private residence properties. Those affected residents are willing to provide an easement once the exact configuration and

language of the easement is worked out to everyone's satisfaction. Thirdly, the safety issue has not changed and moving the pathway would improve safety. He asked that the City complete the improvement, given the fact that the pathway is used by local residents, the school as an alternative drop off area.

Councilmember Anderson congratulated all residents and thanked them for their contributions. He questioned if staff has worked with Mr. Bucher on the easement process. Mr. Bucher said his understanding is that the City provided standard language to be used, each of the residents is reviewing it, they have some concerns regarding liability and it does need to be worked through. But what is apparent is the need to confirm the location of the path, and the residents are willing to work through this process.

Councilmember Federighi questioned if fundraising was on-going, and Mr. Bucher said they have at least $20,000 and if any more comes in, it will be added but he said it would not be a significant amount over the $20,000. He would be happy to work through the exact configuration, costs, and everyone's desires and requirements.

Mayor Tatzin congratulated Mr. Bucher for raising the funds.

Rebecca, Kyle, Marie and Regan, Tommy, Cole, Kate, Keiver, Will, Riley, Alec, and Coca, students from Happy Valley School, spoke about the pathway's unsafe condition, its closeness to the street, speeding conditions and asked the Council to move back the pathway.

TERRI DUBRASICH said many students walk past her house and speed on Happy Valley Road and the walkway should be addressed. She asked that the speed limit be reduced to 25 mph.

KARLA MCQUAIN, Happy Valley School Parent's Club, said they contributed toward the pathway fund and restated that the club is very supportive of moving the pathway. She is encouraged by the City's cooperation in allowing them to raise funds, asked to slow the speed on Happy Valley Road and install flashing lights as part of the final safety plan.

Mayor Tatzin closed the public comment period, said $20,000 has been raised, noted there have been discussions regarding possible easement amendments, and he questioned if the Council was interested in proceeding, knowing the project could commence in the summer.

Councilmember Anduri questioned whether or not another series of community meetings would be held to arrive at the exact plan.

BILL BUCHER proposed coming up with two options for the realignment of the pathway and to present in a public meeting for the neighborhood to attend in order to determine if there is a strong preference for one or the other. Residents have indicated they want the pathway to be away from the road, but to what extent has not been formally addressed. He felt it could simply be relocated to the property line or further onto adjoining properties, which would need to be resolved. He felt that two community meetings might be needed to discuss the options.

Councilmember Anduri questioned Mr. Bucher's opinion on the relative safety of the Reliez Valley Path. Mr. Bucher felt the path was similar to the Upper Valley Path. He said Reliez Valley has more segments where there is a pathway constructed at the same level as the top of berm than Upper Happy Valley, but he felt they were similar configurations.

Mayor Tatzin confirmed with Mr. Bucher that the fuller Path was on private property, it was roughly two feet wide and in "cookie" sized pieces and in a state of disrepair.

Councilmember Anderson referred to the speed issue, said the City went through the process of lowering the speed limit and he questioned if this was justifiable, or would it involve another process. Mr. Bucher said he believed this was another process and referred the question to Mr. Coe.

Engineering Services Manager Tony Coe said the speeding issue is being taken up as a separate matter from the capital project. The neighborhood has already submitted a Transportation Action Request Form to the Transportation Planner requesting staff take a look at the speeding situation. Staff will be fact-finding and identifying solutions and they will return back to the Association to further discuss it.

Mayor Tatzin said he visited the site, felt it was a situation is that the City has an opportunity to move the sidewalk back which would enhance safety. He recommended proceeding subject to being able to work out appropriate easements.

Councilmember Anduri agreed and supported moving forward. He believed the same feeling exists along Happy Valley pathway but there is not an opportunity to move the path back from the road.

Vice Mayor Andersson said he was impressed with the donation of funds raised. He was involved many years ago when Glorietta was repaved and its speed limit was discussed. He believed it was reduced to 25 mph and felt this situation would also be appropriate for reduction. Councilmember Federighi also supported the request.

Tom Felher then presented a series of photographs showing tire marks on the pavement which further provided evidence of their safety concerns.

ACTION: It was M/S/C (Andersson/Anderson) to: 1) Direct staff to accept the neighborhood contribution of $20,000 and use the remaining $16,000 in grant funds; and 2) Work with the neighborhood to design pathway modifications from Franklin Lane to Valory Lane, contingent upon all appropriate easements from the affected property owners. Vote: 5-0-0 (Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None).

9. STAFF REPORTS

10. PUBLIC HEARINGS

11. CONSENT CALENDAR

Councilmember Anderson recused himself from Item E. Items requested for removal were Items A.1 (Anduri), A.2 (Andersson), B (Tatzin), and I (Tatzin).

ACTION: It was M/S/C (Anderson/Federighi) to convene as a Redevelopment Agency. Vote: 5-0-0 (Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None).

ACTION: It was M/S/C (Anderson/Federighi) to adopt remaining Consent Calendar Items C, D, F, F1, G, H, J, K, L and M. Vote: 5-0-0 (Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson;

Noes: None; Absent: None) Vote: 4-0-0-1 on Item E (Ayes: Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None; Recused: Anderson).

C. **Amendment to the terms of an easement for public pedestrian use of a sidewalk along Mt. Diablo Blvd. for the Lafayette Mercantile project located at 3585-3599 Mt. Diablo Blvd. APN 243-120-016**
Recommendation: Authorize certificate of acceptance and recordation of the public use sidewalk easement deed.

D. **Letter from Michelle Edmunds resigning from the Parks, Trails & Recreation Commission effective January 23, 2009.**
Recommendation: Accept with regret and schedule recognition.

F. **Designating the City Manager to Award Contracts for Possible Federal Economic Stimulus Funding**
Recommendation: Designate the City Manager to Award of Contracts for Possible Federal Economic Stimulus Funding.

F.1 **Resolution 2009-11 to Commit to Projects Funded by Federal Economic Stimulus Funding**
Recommendation: Adopt Resolution 2009-II authorizing the filing of an application for Federal American Recovery and Reinvestment Act of 2009 9 (ARRA) funding and stating the assurance to complete the project.

G. **Resolution 2009-09 Setting the Stormwater ERU Utility Fee Rate for FY 2009-2010**
Recommendation: Adopt Resolution 2009-09.

H. **Report from Contra Costa County Animal Services Department for animal related activities and actions in Lafayette from January 1, 2008 to December 31, 2008**
Recommendation: Receive and file.

J. **Palos Colorados Precise Development Plan: letter sent to the Moraga Planning Commission dated February 2, 2009**
Recommendation: Receive and file.

K. **Projections 2009 Third Scenario: long range population and jobs forecasts developed by the Association of Bay Area Governments (ABAG)**
Recommendation: Authorize staff to forward comments to ABAG.

Convene Redevelopment Agency

L. **Resolution R2009-02 Approval of amendment of Critical Solutions, Inc., consultant for project advisor/management of Lafayette Library and Learning Center.**
Recommendation: Adopt Resolution R2009-02.

M. **Award of contract for Lafayette Library and Learning Center Furniture and Furnishings**
Recommendation: Award contract for the Lafayette Library and Learning Center Furniture and Furnishings.

Adjourn Redevelopment Agency

Items Removed for Discussion:

A. **City Council Minutes**
   1. **January 13, 2009**
      Recommendation: Approve.

Councilmember Anduri referred to page 5, 3rd paragraph from the bottom; "Councilmember Anduri said one of the items.....revenue to have another full program two years out." He said he could not remember what that full program out was, and asked to change it to "full program of road reconstruction..."

Councilmember Anduri referred to page 9, with the paragraph starting with "Councilmember Anduri said..." last sentence; "Some questions raised by speakers were irrelevant such as whether this is the right site for City offices, whether there is a higher use for the site over the long term for the community, and in this case the senior center would be the higher use." He said he did not say this, but his point was that the community had to have input as to what was the higher use. He suggested putting a period after "community", delete "and in this case, the Senior Center" and insert "he believes we should use the Downtown Strategic Plan process to determine what....would be the higher use."

Councilmember Anderson said Vice Mayor Andersson is listed as absent as well as being present and asked that this be amended.

ACTION: It was M/S/C (Federighi/Andersson) to approve the January 13, 2009 minutes, as amended. Vote: 5-0-0 (Ayes: Tatzin, Andersson, Anduri, Anderson, Federighi; Noes: None; Absent; None).

   2. **January 26, 2009**
      Recommendation: Approve.

Vice Mayor Andersson referred to page 21, last line of the first paragraph under C; it should be changed from "Councilmember Anderson" to "Vice Mayor Andersson".

ACTION: It was M/S/C (Andersson/Anderson) to approve the minutes of January 26, 2009, as amended. Vote: 4-0-1 (Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None; Abstained: Anduri).

B. **Resolution 2009-02 approving a use fee rate of $17,018.46 for Lafayette Little League's use of Buckeye Fields for the 2009 season.**
   Recommendation: Adopt Resolution 2009-02.

Mayor Tatzin referred to the explanation for the 54% and said he drove by the Buckeye Field. There is a sign that states the field is closed for January and February. Therefore, if Little League is being charged for 54% of the weeks in a year and then they are closed for a portion of the year, the City should calculate their cost for available time or used time as opposed to total calendar time. He therefore recommended the item be continued.

Councilmember Anderson questioned what the percentage would actually be under this scenario, and Mayor Tatzin said he did not know. He noted that Ms. Russell was present earlier in the

meeting. City Manager Falk confirmed that the percentage is based on a straight, 12-month use; Little League uses it 6.5 months or 54% of the year.

Vice Mayor Andersson questioned if soccer was on the field the remaining months, and City Manager Falk said the soccer season is in the fall, baseball starts in March. The intervening dormant period is when the fields are left to rest. The question is whether to load the cost of the dormancy period onto the users or not, which is something traditionally the City has not done. However, the Council can direct staff to re-visit this with the sports league.

Councilmember Anderson said this might make sense, as there exists an actual use period less than 12 months. Mayor Tatzin noted the field is available for pick up games, but if there are large signs up stating the field is closed, it is protecting it for certain users, and the cost of the entire year should be allocated to those users. He would be interested in learning how the percentages would be carried if this switch were made. City Manager Falk noted the City never used to close the fields, but they would become damaged by bicyclists, motorcyclists, and it was easier to lock up the fields and put the sign up.

City Manager Falk questioned Council's desire to return with information, stating he knows that staff and the Recreation Commission spent a lot of time negotiating the contract and would not realize this change in direction would be occurring.

Councilmember Anderson said the contract is for the 2009 season. He wants to see changing the formula, recognizing the two-month closure and identifying the change in percentage. If it is not a great deal of difference, it may be something to phase into the next year. If it is a large difference, he suggested the item go back for negotiation talks.

City Manager Falk suggested continuing the item to the next meeting and confirmed that an agreement has been reached with Little League; however, the Council has not yet technical approved it.

ACTION: It was M/S/C (Anderson/Federighi) to continue the item to the next regular Council meeting. Vote: 5-0-0 (Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None).

E. Resolution 2009-05 Denial of the appeal by Richard Holt of the Planning Commission denial of HDP47-07 and V17-08 for a request for a hillside development permit (HDP47-07) and variances V17-08) to build a new two-story single family residence on a lot located at the intersection of Sierra Vista Way and Sessions Road (Tract 5332 Lot 66). APN 2332-052-019
Recommendation: Adopt Resolution 2009-05.

Senior Planner Christine Sinnette said staff prepared no staff report and has no recommendation on the reconsideration.

City Attorney Subramanian clarified that the resolution adopted previously regarding policies and procedures for Council meetings indicates that the Council must do a reconsideration at the same meeting the item was considered; however, the resolution is presented for consideration as to whether the Council wants to adopt it or not.

Councilmember Anderson commented that the resolution before the Council refers to the trees, Section 4; Findings required for hillside development permit on existing lot of record. In the middle

of the paragraph it indicates that, "although not considered native trees pursuant to Section 6-1702.K., the size and location for the house would require removal of existing redwood..." He said the trees should be considered protected trees and requested this modification be indicated somewhere in the resolution finding; that although they are not native trees, they are protected because it is an undeveloped lot and they are greater than 6 inches in diameter, which is under 6-1702.M.4.
Mayor Tatzin said when he discussed the application at the last meeting, what the Council is seeing is a proposed house size that is greater than the average for the homes on Sierra Vista on a lot where the buildable portion of the lot was smaller than is typical for the surrounding lots, and that the requested variance of a 10-foot variance from the required setback essentially provided special privileges to the applicant because you could build a smaller house with a smaller setback. One of the City's goals should be to: 1) avoid variances and; 2) where they are necessary to try and make the variances smaller. Therefore, he felt a reduction in size would be more appropriate in this circumstance.

Mayor Tatzin also commented that he did not think it was necessary for the resolution to discuss what would be more compatible with the neighborhood, and he and Councilmember Anderson both suggested it be removed from the top of page 4 of 4.

Councilmember Anduri said he was not present at the last meeting, but has read all materials and letters and can participate on the matter.

Councilmember Federighi commented that she found in reading some emails and reflecting on comments made, particularly at the last hearing, some comments were unnecessary and not respectful. She said points can be made without personal attacks, the City prides itself in holding civil discussions and she hoped comments will be made in that vain.

Mayor Tatzin agreed, apologized to staff after the last meeting for comments made by some residents because he thought they were out of line; it is not consistent with the way people in the community normally conduct themselves at meetings. He also hoped that they not be heard this evening.

Public Comments:

JEFF SWARTZ reiterated that he was concerned with his house being set so low and this home being set so high above him and right up against his property line. His greatest asset is their privacy, their private backyard, and even with windows being 6 feet above the floor level, privacy would be lost. He did not like the idea of reducing the house as well because a cottage of 750 square feet could be placed on the other side of the road, which would constrain uphill neighbors, make it appear Sessions Road is Mr. Holt's private driveway and not a formal entrance to the subdivision. He said Mr. Ramamorti lives on 1.5 acres on the west side adjacent to Lot 66. He asked Mr. Swartz to express his significant concerns that the house will reflect noise into his home. He also does not like the idea of losing the view of the redwood grove and tree-lined creek to a house.

BRUCE WHITTEN spoke to the character of Mr. Holt, said many respect his experience and background and reiterated that this is not a personal issue.

ARLENE SARGENT asked to give her time to her husband, Ken Sargent.

KEN SARGENT asked for guidance. He has a request by many neighbors that this Council consider a continuance of the item until its next meeting. The counsel's letter on behalf of Mr. Holt asking that the item be removed from the Consent Calendar was received by him on Friday night. There were several neighbors who were not able to attend tonight's meeting given the lateness of a new understanding that this would not progress forward. Therefore, he asked the Council to continue the matter.

Mr. Sargent referred to the points Mr. Bowie made in his letter which formed the basis for the Council to remove the item from the Consent Calendar. Mr. Bowie speaks about errors of both fact and law. It is the position of neighbors that there are indeed errors of both which are well represented in his letter. He said Mr. Bowie notes that the Council has overstepped its role and goes on to spend a fair amount of the letter addressing the easement issue.

Mr. Sargent reminded the Council that Mr. Bowie has taken the position up until the letter that this is a matter which only can be resolved by a court of law. The neighborhood agrees with this, has differing approaches with regard to who should take responsibility for initiating that action, but they do not believe it is appropriate for Mr. Bowie to try and present his legal case in a letter and then to take the position that because of that, the Council must favorably consider the matter. He stated that he believes the whole easement issue was a significant factor in the ultimate determination to uphold the appeal and he did not believe the appeal was upheld. He did not believe it was a significant factor in the Council's decision, he believes the basis the Council used for the motion made did not address the easement issue but addressed issues of safety, massing, size, and location of the property. Therefore, he did not see any basis for Mr. Bowie to argue in the way he does in his letter. Further on in the letter, Mr. Sargent said when the issue of sizing and massing is referred to, Mr. Bowie states, "no one might seriously suggest that siting might be anywhere other than is admitted." Mr. Sargent said the City's Planning Commission has already taken the position that siting should not be in the area submitted by the applicant. The Planning Commission also found and recommended that massing should not be of the size the applicant is requesting. Mr. Bowie states, "There is similarly no rational basis upon which the proposed massing might be declined." Mr. Sargent submitted that the deliberations of the Planning Commission over three separate meetings are, indeed, a rational basis to question the massing which his suggested. He further suggests, "the project is consistent with neighborhood development" and Mr. Sargent noted there has been a lot of testimony before the Council which has in many different ways pointed out that this proposed development neither from its massing nor from its location is consistent with neighborhood development, He would therefore ask the Council to maintain its previous action and deny the application with prejudice.

Vice Mayor Andersson said removing something from the Consent Calendar is not an action that the Council necessarily needs to approve. He said any Councilmember can remove many items from the Consent Calendar tonight. This is also the option for any party involved or anybody in the room, and purely a ministerial action.

Mr. Sargent said he understands this has been the policy and courtesy extended by Councilmembers; however, nevertheless, for notice of that action to come as late as it did, there are a number of people who would have liked to have been here who simply could not be here.

Mayor Tatzin said if the letter had not come in, the item could still have been requested by someone to be taken off of the Consent Calendar and the Council would have done so. He said while neighbors did not get the amount of notice received, they got more notice than one might have. Mr. Sargent agreed this was also true.

GUY ATWOOD questioned if the Council was reconsidering the Consent Calendar. Mayor Tatzin said there is no need to reconsider it because the Council never took action; it directed staff to prepare a resolution and has not acted on the resolution under Item I.

Mr. Atwood said he is present to support the resolution with amendments the Council has discussed. He felt it was inappropriate to put square footage in the resolution, but noted the Council has agreed to remove it and he supported that. He reiterated one of the points he made at the last meeting; he was Chair of the Planning Commission when the Northridge application was approved. It was presumably owed by Mr. Jacovina at that point in time, although he was not sure if everything had changed hands with Mr. Sessions. He said whoever owned the property agreed to all conditions of approval that the Planning Commission placed upon the development at that point in time and those conditions included where the road and trees were placed, and the City of Lafayette directed many of where those trees were to be planted. The Commission wanted to protect the area, protect the homes along Sierra Vista Way and those actions were taken by the City for those protections. To go in now and take away those protections the Planning Commission used to approve the application seems to be insane. If anything has changed in those conditions of approval, it would seem to him that it would be inappropriate action on behalf of the City.

Councilmember Anderson said his understanding is the conditions of approval cannot be found. Ms. Sinnette said there are at least two copies of the conditions in the Northridge file. If they are missing, it is because members of the public removed them. As she stated a number of times in testimony and in staff reports, she reviewed the conditions of approval and no where in the conditions does it mention a requirement to plant trees off site. The only condition is related to a landscaping plan for the clubhouse area. However, there are also no landscape plans in the file.

Mr. Atwood said he could testify, as he was there, that the Commission did place conditions of approval on the application in that particular location to protect those homes, including the planting of trees, and that the Planning Commission and staff were the ones who moved the road away from the lot that is being proposed more to a centerline in the road. He said they certainly did not contemplate creating a lot when they did that.

FRANCOISE GOSPODAROWICZ read a part of the document Dick Holt gave her when they purchased their home 16 years ago which was presented by their title company, First American Title Guaranty Company, and originated from the records of Contra Costa County; it states about Lot 66 and Parcel One, which is their lot:

> A right of way (not to be exclusive) as an appurtenance to Parcels One, Two and Three, above, reserved in the Deed from Edson O. Sessions, et ux, recorded January 16, 1973, Book 6843, Page 486, Official Records, for use as a roadway for vehicles of all kinds, pedestrians and animals, for water, gas, oil and sewer pipe lines and for telephone, electric light and power lines, together with the necessary poles or conduits to carry said lines, over, under and upon all of Lot 66, as show on the Map of Subdivision 533-2, filed March 12, 1954, Map Book 53, page 12, Contra Costa Records and over, under and upon that strip of land 50 feet in width, known as Sessions Drive, the centerline of which is described as follows...". Please find enclosed a copy of this document.
>
> To come to another part of the subject regarding the size of the houses on Sierra Vista Way, especially the ones close to Lot 66, according to the statement of Christine Sinnette in the Planning Commission staff report of August 21, 2008, she talks on page 3 of this report about "information" she got "from the County Assessor's Office." First,

she is glad that now she finally recognizes their authority since earlier when they presented some records of the same office showing that Lot 66 was "vacant, unbuildable", she said it has no value. So now she is showing a list of properties along Sierra Vista within 300 feet of Lot 66 with an average of gross floor area of 2,429 square feet. Ms. Gospodarowicz said 3 of the 4 closest homes next to Lot 66 on the same side of Sierra Vista are built on two lots (according to the Contra Costa Mapping Information Center: she copied these maps); their addresses are 1111, 1117, and 1141 Sierra Vista; the fourth house address is 1139 Sierra Vista, it is the Swartz house, built on only one lot.

So, instead of 4 lots, we are now talking about 7 lots when figuring the average size of the living areas around Lot 66: it comes to an average of 1,464 square feet. If we are counting on the other side of Sierra Vista, the four closest houses to Lot 66 have living spaces of 1,585 sqf (1100 Sierra Vista) 1,286 sqf (1102 Sierra Vista), 1,519 sqf (1106 Sierra Vista) and 1,855 Sierra Vista), which makes an average of 1,561 square feet. So, we are far from the size of the house planned for Lot 66.

The size of the single lots involved with these homes is a minimum of 9,960 square feet, which is huge compared to the sliver of the buildable part of what is called the corner Lot 66. She said she conducted more extensive research on the other homes of Sierra Vista adjacent to Lot 66 (about 16 of them) but it will be too long to present all of these results. And, by the way, the Contra Costa County Records never show a house of 4,011 square feet at 1111 Sierra Vista as Christine Sinnette said; they show two independent structures; one of them being a garage.

And, to come back to the authority of the Contra Costa Records finally accepted by Christine Sinnette, they were previously showing what they said regarding the "existing land use" of Lot 66. They said "vacant, unbuildable". When later on the same page, it comes to the "lot size" compared to the records of the previous lots, it is written "0" zero. She asked the Council to take her comments into consideration.

D. Gospodarowicz said Mr. Holt is his friend, he bought the property 14 years ago for them at a very good price, but friendship is friendship and business is business. He said Mr. Holt gave them a deed which was recorded that they have to this lot. He is entitled to take the property back and make profit on it, and he has nothing against Mr. Holt.

SUZANNE PITCHFORD said she has lived at 10 Sessions Road for over 20 years; her husband was there when Sessions Road was their driveway when only one house existed. She knows that when Northridge was developed, they did widen and soften some of the curves. She was not sure what happened to all of the paperwork but she knows it got done. She also said she was very concerned about a home being built that is oversized for the lot, she asked to read and incorporate a letter from Ms. Hehmeyer that was sent to Don Tatzin, and Mayor Tatzin indicated to her that the letter is part of the record. Ms. Pitchford said she would give the rest of her time to whoever needed it.

Lakshman Watawala dedicated her time to whoever needed it.

ALLAN HOULBERG said his main involvement in the project is the Sierra Vista neighborhood. He said he admires Councilmember Anduri's speed reading and offered to update him further on information that could have been missed. He apologized to Councilmember Federighi for being out of line, but he asked the Council to understand that this is a very sensitive subject and felt that

the Council could identify with the many people being so passionate about the project. He said Sierra Vista neighborhood consists of Eichler homes, single-story ranches of 1200 to 1600 to 1800 square feet. The Council told Mr. Holt previously to simply scale down the 2800 square foot home to a smaller size to fit into the neighborhood, but Mr. Holt will not listen and he felt this was arrogance. He believed they were still very far off from getting down to something approvable that fits into the neighborhood. Sierra Vista Way neighbors are very upset about their property values, he believes Mr. Swartz will have a big loss of value to his home with Mr. Holt's balcony sitting 10 feet away from his bedroom, and he asked the Council to think about those who live in Lafayette and not developers who purchased a piece of unbuildable land for $20,000 who now want to develop a million dollar home. He said there is also the issue of the easement and drainage and said rains in the past have resulted in driveways ending up on Sierra Vista Way. There are many other problems and he asked the Council not to let an attorney erode the City Council.

BRAD AND CARLA FROLICH, owners at 1102 Sierra Vista Way, presented pictures to the Council of the redwood grove, said it is debatable as to how many were oaks in the town, they presented 360 degree views from their property, said there are probably 50 oak trees they can see from their house, they ride their bikes to school every day, and said they live in the smallest house in the neighborhood at less than 1300 square feet. They dispute anything being built on the property, they love that the entire meeting started tonight on preserving open space, said this was the reason they bought their home in Lafayette and said they want to ensure everybody is thinking about preserving the trees and preserving the town. Ms. Frolich said it was brought up that the trees were fast growing, there are only a few of them, but she said they are not as fast growing that they would be the size they are now in her lifetime. Mr. Frolich said they also have a privacy issue with the proposed house being built right above and across the street from them. They bought their home because of what is on their hills and they do not want it disturbed.

LYNN HIDEN said Carol Hehmeyer asked her to read an email she sent to her which is a little different from the letter the Council had received. She states, "There is no doctrine that if a landowner grants through deeded recorded easement an easement that is over an entire lot, that they can then demand the right to use that lot in contradiction of the grant he gave on the ground that his own grant overburdens the lot. She has cited a number of cases that say the exact opposite. Many of our cases have reviewed ***Scooby (??)*** and interpreted to mean that you cannot cancel what you have granted. We have been through this exact same fight many times. Mr. Bowie always just cites this one case. Among others I have cited a case where an entire lot was granted for use as a parking lot. The owner of the underlying servient easement then tried a "Mr. Bowie argument" and said that the shopping center really didn't need the whole parking lot, so it overburdened his servient easement. He wanted to build a gas station on it. The court said no way. He granted that easement and it stands whether the shopping mall meets the whole lot or not. When the property owner moaned and whined, what can I do with my lot now, the court said, well, you can pay taxes on it or just sell it. In other words, he had sold his lot in effect and now has to just pay taxes on it. That is what Admiral Sessions did and that is what Jacovina did after him. Lot 66 is useful or ingress and egress and placement, maintenance, installation and movement of utilities and that's it."

LAKSHMAN WATAWALA said he talked to most of these points before, but countered what Mr. Bowie's letter states on the easement aspect. Mr. Bowie has said that the subsequent grantors didn't have the right to grant the easement on the lot. He bought his house from Hallmark Properties and Hallmark Properties bought his lot and four other lots along with the easement rights from Mr. Peter Jacovina and he has, along with his deed, the deed signed by Peter Jacovina as the owner of Lot 66 selling the other four lots to his builder. At that point, Mr. Peter Jacovina wholly owned Lot 66 and then sold the other properties he owned and not that lot to him

and his other three neighbors. In that transaction, it was clear that the easement covered the entire lot 66. Mr. Jacovina, owning that lot at that point in time, had the full right to grant that easement because he owned that lot. He derived the economic benefit out of that transaction by granting that easement and this is what is being argued, which should be preserved. He said Mr. Bowie goes back to some earlier document and in some transaction that seems complicated across three parties, and he is bringing that up to say there is something the matter with it, but what they have is a very clear transaction. Also, regarding the size of the house, his neighbor, Jeff Holman who could not be here but submitted a letter, asked to read it into the record, which Mayor Tatzin said was in the record. Mr. Watawala said in his analysis which was checked with the Contra Costa records, they calculated out all lot sizes and the average comes to 1800+ square feet. If one considers the side of the lot where Mr. Holt wants to build the house, a compatible house that could be built there is about 300 square feet. He said this particular lot was never intended to be built upon. It is a formal, scenic and natural-looking entrance into the 20 home area, and his lot sits on 4.5 acres as well as many other homes there. Desecration of that should not be allowed regardless of the easement situation and everything else. He asked that the Council deny the application as planned before.

C. W. CHUNG said he is the President of the Northridge Park Homeowners Association. After the last Council meeting, he went back and reported the Council's decision to the neighborhood. Many people came back and indicated they were happy with the result. One neighbor who recently moved from Canada to live in Lafayette actually said to him that he now believes more in City government and thanked the Council for upholding their high standards. He said the neighbors support the Council's decision and resolution to deny with prejudice, and honestly are a bit fed up with the matter. The applicant continues to repeat his argument and his reasoning is being refuted. This is a problematic and impossible lot and they want it rejected once and for all and hoped the Council upholds its decision to deny with prejudice in order to have peace for at least another year.

WING CHIN dedicated his time to another speaker, as needed.

DAVID BOWIE, representing Mr. Holt and Lamorinda Properties, commended the City Council that at the first part of the meeting when there was the discussion of local stimulus plan under consideration. He believed it was probably a good thing. He heard several comments made regarding means of streamlining the process and maybe reducing some of the developer's cost as part of that. He said the reason he asked the Council to reconsider its decision that has not yet formally been made this evening was for precisely that reason. He said this is an application that is not going to go away. He knows the neighbors would like to see it go away, but it is a lawful and legal lot and it will be developed into some type of a use. There is a lawful right to develop the property to that type of use. What he was hoping to suggest is that the most efficient way of dealing with this is not to continue to send this through a process but instead, to complete Phase I of a process that has already been much lengthier than it should have been. Phase I in this process is simply siting and massing. This does not specifically speak to the issue of size. Siting and massing and massing in particular, is a different issue than size of a home. What the Council can do and what he would recommend would be to refer this matter to the Design Review Commission. The DRC is specifically tasked with the responsibility for addressing the issues having to do with the treatment of the home and making the actual findings which relate to size. In looking at the findings contained in the staff report, the Council will find that the findings relate to the hillside development permit process. There is not one reference in that entire process to size. This is why there is a Phase II to this entire matter. Phase II is going back to the DRC, allowing the DRC to consider the actual findings required as part of design review because the City is not there yet and then, to make a decision based upon what the right home is, to take professional

steps to reduce appearances of massing, scale, size and to deal with the aesthetic and architectural issues which are so important to the approval process to come up with a home that is deserving to be in Lafayette. The problem he said he has with what the Council is doing this evening is not giving that process a chance to work its way through. All neighbors have all the same rights that they have at this point; they still will have the right to go before the DRC and provide all of their input regarding size, massing, etc. They also have the further right to appeal to the Planning Commission and there is the right to appeal that entire application to the City Council all over again. But at least at that point, there is a completed application which everybody has taken real action on in a final format and then that is in a final posture to be finally finished.

Mr. Bowie acknowledged his speaking time was up and confirmed with the Council that Mr. Holt would concede his time to him. He said what he is suggesting to the Council is they could take the Council's suggestion from the last Council meeting that maybe there should be another 5-10% taken off the particular home size which is a 2000-2200 square foot figure that is in the resolution, which should still be in the resolution because this is actually what was said the last time through. But they could go back and do a further reduction in size, go back through the entire process again still only being in Phase I, but this is not consistent with the stimulus package discussed this evening. And, they should not be required to do that. There is another filing period and whole series of meetings they must go through, and yet this is something in terms of size which is addressed in Phase II and not in Phase I. He thinks if the Council looks at the staff report and findings, the Council will see he is correct—there is not one reference to size anywhere in the findings the Council is supposed to be making. He suggested that the most efficient process is not to decide this other than to say, the Council will provide further direction—that the Council thinks collectively that size is an issue and is asking the DRC to consider this. On behalf of Mr. Holt, Mr. Bowie said he is receptive to the Council's comments about size. But he does believe they are entitled to get to Phase II.

Mr. Bowie said many of the neighbors talk about the project should be turned down and designed with prejudice, but he has not gotten to Phase II. He said he never had an experience before in the City of Lafayette where there has been a denial with prejudice and it has always been without prejudice, and he suggested it would be inappropriate to deny the application at a Phase I stage with prejudice, since no one else has suffered that particular indignity. Mr. Bowie said he was always amused to hear discussions about what has happened in prior history and Mr. Atwood's comments about the Northridge subdivision. The history is clear cut—it was Western Title and the Western Title indenture which created the current Sessions Road. It located where that road was going to be. They have heard someone else say this was originally their driveway before the Northridge subdivision every existed. This is probably correct because it is consistent with the record.

Mr. Bowie said he has done the legal research regarding the manner in which record title works, he is confident he is accurate about it and it can be debated, but this is not the point. He was also confident he is correct in terms of the broad legal principles of law, but this is not the point. The reason he did that in discussion was because he had the feeling that some of the Council was overly concerned about that aspect of it so he wanted to be sure to put it into context so there was some sense from their side.

Lastly, Mr. Bowie said the Council has a professional staff who have said there is really no place else to site this particular home other than where it is. There will be some loss of trees but this is not unusual. There have been other applications where heritage oak trees have been lost because they are inconsistent with the placement on the lot of a home. So while tree loss is always something to be avoided if possible, staff in its professional recommendation has said this

is the right site for the home and he has made changes to accommodate as many trees as possible. This only leaves massing and there is only so much one can do with this. He therefore suggested that the proper course of action is to send this to Phase II and then make a final decision on the final application. He was sure if the Council allowed them to go to Phase II, it will still come back at some later time, and it would be more efficient for everybody.

Mayor Tatzin confirmed there were no other public speakers.

Councilmember Anduri suggested taking a 5-minute break.

BREAK
Mayor Tatzin called for a 5-minute break and thereafter reconvened the regular meeting.

Councilmember Anderson said he knows the process is a two-part process and Mr. Bowie referred to that several times. The question here is siting. The Council is operating in a de novo fashion. He thinks that the siting seen so far is not appropriate because of the impact it has on the environment which is reflected in the draft resolution the City has, which with modification of the language would indicate that the trees are protected. There is also indication that there are impacts to habitat and other natural features. He thinks it was said very well by a couple of people that this is really one of the things we try and protect in Lafayette—is that kind of feel and character. He thinks that this lot is extremely constrained. It is very, very small and it has a lot of trees on it. He thinks that the issue is to find some way to do a better job of siting this so the impact is not so great. Therefore, he really feels this is one of the Council's biggest issues that keeps him from making the findings required to allow this to move into the next phase, and that is purely a siting issue.

He is also concerned about the massing and the sense that massing from his understanding has to do with the appearance and character, bulk and mass of the proposal. In this case, it will step up the hill and it will have a rather large mass to it. He said these words are kind of subjective, but this is his feeling and he has a problem with the massing of this particular proposal as seen at that location, which is also consistent with the Phase I part of the process the Council is going through now and does not allow him to make the findings. These are the kinds of issues which are holding him to maintain denial discussed previously and that staff has written a resolution to, to actually implement.

Vice Mayor Andersson concurred with Councilmember Anderson's comments, stating that it is very difficult to see how many if any of the trees, can be preserved with the current size of the home. He would like Council to consider changing the resolution regarding the prejudice. It currently reads that it would be denied with prejudice and he was not sure he sees the need to do that. In the last meeting, the topic came up but he did not think the Council really made a decision on it. It seems to him that based upon comments heard and made in the past, there are solutions to difficulties with the project and he did not see the need to deny it with prejudice and delay a future application if the applicant can return with something more acceptable.

Mayor Tatzin said if the Council denies an application with prejudice, he asked what was the earliest time a new application could be submitted and how might it have to differ at all from the current application.

Ms. Sinnette said the zoning ordinance states that "no person may file a new application for substantially the same request for a period of one year from the date that the action of the City is final except as provided in a section without prejudice." She said basically, the applicant could

not submit another application for one year regardless of whether or not it is comparable or not. Mayor Tatzin noted it states "substantially the same", and he questioned how staff interprets what is substantially the same and what is not. Ms. Sinnette said it would have to be reviewed on a case-by-case basis.

Councilmember Federighi said she has a strong sense that the Council is supportive of its initial action and she would support the proposal by Vice Mayor Andersson that this denial be one without prejudice. Other than the disputed easement, her biggest concern is more the size of the variance from the trail easement; however, the City has done this before but it is the only way this house can be the size that it currently is. The request is a 15 foot break on the easement; 20 feet are required and 5 are requested from the trail, which is a significant amount on this particular piece of property, although the City has granted it before.

Councilmember Anduri clarified that he does not have any speed-reading abilities and actually read the entire stack of information over the month. His reading in the last couple of weeks was materials from the last meeting. Unfortunately, the application creates many layers of misunderstandings and complications. He can see this will go on and on and agrees it will return. He thinks the Council supports and people should be aware of that, contrary to Mr. Bowie's letter which stated that the decision was based in part on statements on the easements, his understanding and his view was that he was taking the advice of the City Attorney that the Council does not consider the private easement situation at all in making a decision here. This is a matter between the applicant and the 22 homeowners. There has been a lot of testimony on both sides of this that is not relevant to the Council's decision to be made now. It is not influencing one way or the other the concerns voiced of the neighbors and it is something that needs to be decided by a court. In a sense, the Council is acting in a quasi-judicial way when considering this type of application, but this is not an issue for the Council, but one of an issue for the court.

Regarding open space, he understands the feelings of the neighbors. He himself lived right below a hillside and someone bought the lot, built the house and now they look right up at the house. Unfortunately, there can be no expectation of a clear and permanent view and this is why the City needs to move to actually acquire these lands in order to protect them because nobody unfortunately has a guarantee that the lot next to them or the hillside above them will stay undeveloped forever. It is unfortunate, but this is the way it is. While he understands how the neighbors feel because he has been in the same position, unfortunately there can be no expectation that a lot is going to stay un-built on forever unless you have the rights you say you have and then you need to enforce those in court. So all the City can do here is look at the applicable ordinances and how they are applied to this situation.

Councilmember Anduri said the resolution before the Council has two parts; one deals with the variance and he is not prepared to support the resolution on the variance issue. However, he is in agreement with the resolution when it rejects the appeal because contrary to what Mr. Bowie said, there is language in the hillside ordinance which says the Council is looking at siting and massing and can look at it in stage one. The concern is, is that the Council needs to look at whether the siting and massing impacts the privacy of the neighbors. There are several different aspects to privacy. He thinks the way this house is going to be located on the property and the height that this house has, and this is something he mentioned at the December 8th hearing, there is a 75 foot elevation difference between the bottom of Mr. Swartz' house and the top of this house. This he believes is a huge problem, and there is no reason for that. The Council does not guarantee any particular house size. He understands all the discussion about what fits into the neighborhood which is relevant, but one really must look at what is appropriate in the

circumstance. And the house size proposed now, both in the size and the mass, is simply not appropriate for that lot. And for that reason, he would support the resolution before the Council.

Mayor Tatzin said Mr. Bowie, in his letter of February 4th, misinterprets the intent of some of his earlier remarks. He said he wants to make it clear for the record what he meant by referring to earlier minutes. Mr. Bowie indicated that he had suggested that "perhaps if 4%-5% to 10% of size might be reduced, that reduction in size would be immaterial from a perception standpoint, etc. and would be an arbitrary and capricious request." What he did say in the meeting of December 8th was that he felt that the relevant house sizes were in comparison to those houses on Sierra Vista and that the proposed house was 15-20% larger on a lot that is clearly constrained by having a road down the middle of it. So, if anything, the house should fall on the smaller side of the Sierra Vista home sizes. He did not say the reduction should be 15-20%; he said the approved house should be on the smaller size of what exists of what he considers to be the comparable houses. Mayor Tatzin said we are not talking about another 5-10% reduction but something substantially more. And, because he thinks this is appropriate, when he looks at Section 3 of the ordinance where it talks about "the variance cannot be granted because it would constitute a grant of special privilege which is generally not available to other property in the vicinity and in the same land use district" he thinks this application meets that. It is in the same land use district as the homes on Sierra Vista, if the variance were granted it would allow the construction of a larger house because of the variance than is typical in the surrounding homes, and so he views this as a grant of special privilege which he thinks is inappropriate. He thinks one can certainly build a house, assuming there is a legal lot here to build on which is not what the Council is talking about tonight, then it is possible to put a house on this lot that is in line with the smaller sizes of houses on Sierra Vista that he thinks is not substantially the same request as what is before the Council this evening and that would protect some of the trees and also request a smaller variance.

Mayor Tatzin said that even when the Council grants variances, they should try to be made as small as possible. So, in a variance there are two steps to the decision—the first is do you grant a variance at all, and secondly, to what extent or how big is that variance. In this case, while we have not seen a smaller proposal to see what a small variance could be, he thinks this variance is too large.

He said there was a discussion about massing is not the same as size. He thinks there is a very strong correlation in particular in this house design. So, he thinks the DRC would be put in a very difficult situation were the Council to continue this item to them and say, we approved it at this size and siting and ask them then to fix it. He said they have had DRC meetings before where they have expressed frustration when they feel the Council has referred on situations like that to them. To a certain extent, he feels that by upholding the appeal and sending it to the Planning Commission, we would be almost be giving the application a social promotion and he does not believe this is warranted. So, he thinks the resolution needs to be tweaked in terms of the ways some Councilmembers have suggested this evening.

Regarding the issue of prejudice versus without prejudice, he understands there will be another application at some point. His concern is if the Council denies without prejudice, the next application could be 50 square feet smaller than this one and essentially similar mass and variance, and this is not the message he wishes to send. So, he is not necessarily saying the applicant needs to wait a year before submitting another application but he does think it should not be substantially the same application. It is obviously going to be the same use but the issues of massing and siting need to be substantially different. Therefore, he would still prefer to adopt the resolution denying with prejudice. He questioned whether the City Attorney would like

continuance to make revisions to the resolution as there have also been requests from the audience to continue. Ms. Subramanian said it is not necessary; language has been drafted to address Councilmember Anderson's concern about the protected trees she could read.

Councilmember Anderson said he felt that the audience's concern was that this would start up a process they were not aware of, but it was clarified this could happen regardless. He said he supports the denial with prejudice for the reasons Mayor Tatzin has stated. Councilmember Anduri supported it, as well, and said before the application returns, there has to be a significant change.

Ms. Subramanian noted the revised language would be included in Section 4 of the resolution, second sentence would be deleted: "Although not considered native trees, pursuant to Section 6-1702.K.LMC."

The new sentence would now start with: "The size and location of the proposed house will require the removal of existing redwood, canary island pine and California pepper trees, which are protected trees as identified in Section 6-1702.M.4., and result in impacts to animal habitat and natural features."

Mayor Tatzin noted there is also a request to remove the last sentence of that paragraph, and Ms. Subramanian said staff would delete the sentence that states, "The smaller house of 2000 to 2200 gross square feet in size would be more compatible with the neighborhood."

Councilmember Anderson questioned if it would make sense to strike the actual sizes and keep the statements that a smaller house would be more compatible with the neighborhood. Mayor Tatzin felt this was understood and asked that it be struck.

Vice Mayor Andersson referred to the prejudice question, his thought was that the applicant would have heard enough to understand the types of changes that need to be made to be more successful in a following application. That having been said, he suspects that changes that would need to be made for a more successful application would be widely considered to be substantial. Mayor Tatzin said and therefore there is not a time delay. Vice Mayor Andersson said he would defer on this.

ACTION: It was M/S/C (Anderson/Anduri) to adopt Resolution 2009-05, as amended. Vote: 5-0-0 (Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None).

12. COUNCIL/COMMISSION REPORTS

A. Councilmember report on activities and consideration of matters a councilmember wishes to initiate for placement on a future agenda.

Mayor Tatzin said he and the City Manager attended a meeting of the Contra Costa Council Economic Outlook Forum one week ago. While speakers were generally pessimistic about short- and medium-term outlook for the California economy and the California political system, he felt there was an interesting presentation which included former Speaker of the House Willie Brown, former Assemblymember Joe Canciamilla and former Assemblymember Keith Richardson talking about the dysfunctionality of Sacramento and how it is becoming engrained and perpetuated by the current system and the difficulty of making a significant change.

Mayor Tatzin announced that two weeks from today there is a Lamorinda Mayors meeting and he asked Councilmembers to forward any items for the agenda to the City Manager.

Vice Mayor Andersson reported he and Mayor Tatzin attended the Mayors Conference last week, had an interesting discussion at dinner about potential challenges and the Moraga Triathlon.

Councilmember Anderson noted that for members in the audience who questioned the ABAG item, it was on the Consent Calendar and already passed.

B. Don Tatzin, Mayor
Establish a Communications and Charter City Exploration Committee
Recommendation: Discuss and direct staff.

Mayor Tatzin said he and Councilmember Anderson discussed forming a Charter City Exploration Committee. He presented a draft discussion document. He said one of many ideas from the Finance Review Committee was becoming a charter city, which has some advantages and disadvantages. There was also a recommendation that the Council determine how to communicate more effectively with residents. The idea came up to consolidate those two things into one effort where we create a group of people who could look at the pro's and con's of becoming a charter city, recommend what has been found, then work with staff to draft a charter for consideration, and at the same time, think about how could the City communicate the work and findings and recommendations effectively as part of a communications effort than what has been done historically. The communications part then becomes an example for a procedure which can be carried forward to other kinds of activities. There is also a proposal for membership which is a standard and then taking some timelines from the work plan adopted earlier. He said they are a little bit ahead in terms of thinking about forming a committee by one meeting and asked for comments and thoughts.

Vice Mayor Andersson said on the last line, the referendum is listed as 2010 and he questioned if this was because it needed to be in 2010 or should it be in 2009. Mayor Tatzin said the charter does not necessarily need to be. If you link a charter to a real property transfer tax that has a 50% approval rating, then it must be linked to an election in which Councilmembers are up for election. He felt that it did not make sense in the current economic environment to be spending money on a special election whereas a general election is relatively inexpensive in terms of the City's costs.

Councilmember Federighi questioned what percentage of a vote does the City need to become a charter city, and Mayor Tatzin said 50% plus 1, and she confirmed 50% was needed to amend a charter of a charter city, and noted this concerned her a bit.

Councilmember Anduri questioned whether or not adopting a charter and the tax could be done at the same election. Ms. Subramanian believes both could be done at the same election, but the charter does not necessarily have to go on a general election but the tax would need to go on a general election. Councilmember Anduri said the 50% on the tax is only applicable to a charter city, and Ms. Subramanian said you cannot have one pass without the other. He confirmed then if they both passed they are considered to have happened while you are a charter city.

Mayor Tatzin said possibly the committee will come back with another recommendation, and he felt the timeline was tentative. If the Council wanted to move in this direction, it would provide a fair amount of time when the Committee completes its report to when the voters make a decision. And, it may be decided not to be done. Apart from what this committee does, the Council may want to identify that it is running the City efficiently and conservatively.

Councilmember Anduri said he understands the idea of using this as a demonstration for communication skills, but he felt there is an ongoing need to communicate other issues as well. Mayor Tatzin noted there are many good examples of communication the City already does, but Councilmember Anduri said the point of the Finance Review Committee was is that nothing seems to be really working. Mayor Tatzin said therefore the question is whether to communicate a lot of things, maybe not do any of them well, or should you do one and try to do new technologies to make an impact before you spread it. The intent is to come up with something that works and then do it for an entire range of issues over time.

Councilmember Anduri said Vice Mayor Andersson spent a lot of time developing, and the Council approved, reaching out to community organizations for presentations. He has not been overwhelmed by any such requests, and he questioned if any presentations had been made.

City Manager Falk said staff sent out over 150 letters offering services, and no responses have been received. Vice Mayor Andersson noted Lynn Hiden indicated the Council was not communicating enough. He indicated to her that no responses were received after outreach and she believed the response should be solicited, which he felt might be part of the committees' review.

Mayor Tatzin suggested beginning the advertisement for people who might want to join the Committee, and Councilmembers agreed and confirmed with staff that it would be a combination of posting the advertisement to the website, newspapers, and Mayor Tatzin agreed to provide a draft. Councilmember Anduri asked that the open space representatives be notified as well. Councilmember Federighi said to piggyback on Councilmember Anduri's comments regarding communication on other subjects, while she understands the desire to focus on one particular project, if the Council finds something is very effective, to continue with that. Councilmember Anderson reminded everybody that every committee needs staffing, care and costs money. If the two committees were made into one committee, they could work on launching the charter question as well as identify new skills and technology to carry that into the future.

Councilmember Federighi questioned if there would be a Brown Act issue by combining the committees, and City Manager Falk said the committee regardless would need to follow the Brown Act and noticing requirements. Councilmember Anduri said one just needs to read the four pages of comments on the Downtown Strategic Plan to realize the miscommunication and misinformation that is present.

13. WRITTEN COMMUNICATIONS

A. Letter dated January 16, 2009 from Ashley Coates, President of the League of Women Voters of Diablo Valley, requesting a contribution to help cover the cost to produce candidate debates.

Recommendation: Discuss and direct staff.

Ms. Subramanian reported there is a court case by the California Supreme Court in which the City of Salinas had a ballot measure placed on the ballot by the public. It was a reduction of a parcel tax or other tax. The Council requested staff prepare some financial analysis as to how this would impact the City's budget. The City was sued saying they were using public funds to encourage a no vote on the proposition. The League of California Cities has done an amicus brief to argue it was purely informational and she was hesitant to recommend taking action on this item because at a minimum, the Council would need to get involved with how the debate was conducted.

GABRIEL FROYMOVICH said he felt this was one of the most inefficient ways to get somebody to pay attention and he felt it would be a waste of money to contribute toward the cost to produce candidate debates.

No action was taken by the Council.

14. ADJOURNMENT

The City Council adjourned at 10:08 p.m. to the next regular City Council Meeting at 7:00 p.m. on February 23, 2009

APPROVED:

_____
Don Tatzin, Mayor

ATTEST:

_____
Joanne Robbins, City Clerk